

**COMMONWEALTH OF VIRGINIA**  
**Department of Environmental Quality**

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**Subject:** Waste Guidance Memo No. 01-2007 Vegetative Waste Burning at Closed Landfills

**To:** Regional Air Compliance Managers, Regional Waste Program Managers

**From:** Karen Jackson Sismour  
Director, Waste Division

**Date:** January 10, 2007

**Copies:** Richard F. Weeks, James Golden, Regional Directors

**Summary:**

The Code of Virginia, § 10.1-1410.3, directs the Department of Environmental Quality to develop policies and procedures to allow for the infrequent burning of vegetative waste at permitted landfills that have ceased accepting wastes but have not been released from post-closure care. Currently, the air and waste regulations allow for infrequent open burning at local landfills. This guidance is needed to clarify the amounts and types of materials that may be burned, frequency of burning, and length of burning. Facilities can conduct open burning provided the guidance is followed, including plans and prior DEQ notification. No permit or prior approval is required from DEQ. Landfills may amend their Operations Manual to include open burning as an approved activity. Approval from the local government and fire marshal; site security plan; Emergency/Contingency plan; site maps; and storage and ash management plan will be required in the Operations Manual.

**Electronic Copy:**

An electronic copy of this guidance is available on DEQ's website at <http://www.deq.virginia.gov/>.

**Contact Information:**

Please contact Virginia Butler at (804) 698- 4053 or [vabutler@deq.virginia.gov](mailto:vabutler@deq.virginia.gov) with any questions regarding the application of this guidance.

**Disclaimer:** This document is provided as guidance and, as such, sets forth standard operating procedures for the agency. Nothing in this guidance shall be construed to prohibit a city or locality from exercising its authority to regulate open burning at closed landfills by requiring permits or approvals. All burning must comply with federal, state, and local laws and ordinances.

## **OPERATING BURN PITS AT CLOSED LANDFILLS**

### **Introduction**

§10.1-1410.3 of the Code of Virginia requires the Department of Environmental Quality to develop the policies and procedures for the burning of vegetative waste at landfills that have ceased accepting waste but have not been released from post-closure care requirements. The Code requires that this guidance include:

- limits to the amount of vegetative waste that may be burned,
- types of materials that may be burned,
- frequency of the burning,
- length of time the burning occurs,
- measures to ensure the protection of public health and the environment, and
- evaluation of alternatives.

Currently, the Air Regulations (9VAC5-40-5630 A 10) and the Solid Waste Management Regulations (9VAC20-80-250 C 8) allow for infrequent open burning at local landfills. The Vegetative Waste Management and Yard Waste Composting Regulations, 9VAC20-101-140, prohibit open burning on composting facility property.

### **Definitions**

The following terms are defined under 9VAC 20-80-10:

"Clean wood" means uncontaminated natural or untreated wood. Clean wood includes but is not limited to by-products of harvesting activities conducted for forest management or commercial logging, or mill residues consisting of bark, chips, edgings, sawdust, shavings or slabs. It does not include wood that has been treated, adulterated, or chemically changed in some way; treated with glues, binders, or resins; or painted, stained or coated.

"Closed facility" means a solid waste management facility which has been properly secured in accordance with the requirements of this chapter.

"Debris waste" means wastes resulting from land clearing operations. Debris wastes include, but are not limited to stumps, wood, brush, leaves, soil, and road spoils.

"Facility" means solid waste management facility unless the context clearly indicates otherwise.

"On-site" means the same or geographically contiguous property, which may be divided by public or private right-of-way, provided the entrance and exit to the facility are controlled by the owner or the operator of the facility. Noncontiguous properties owned by the same person, but connected by a right-of-way which he controls and to which the public does not have access, are also considered on-site property.

"Open burning" means the combustion of solid waste without:

- A. Control of combustion air to maintain adequate temperature for efficient combustion;
- B. Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and
- C. Control of the combustion products' emission.

"Post-closure" means the requirements placed upon solid waste disposal facilities after closure to ensure environmental and public health safety for a specified number of years after closure.

"Solid waste boundary" means the outermost perimeter of the solid waste (vertical projection on a horizontal plane) as it would exist at completion of the disposal activity within the facility boundary.

"Storage" means the holding of waste, at the end of which the waste is treated, disposed, or stored elsewhere.

"Vegetative waste" means decomposable materials generated by yard and lawn care or land clearing activities and includes, but is not limited to, leaves, grass trimmings, woody wastes such as shrub and tree prunings, bark, limbs, roots, and stumps. For more detail see 9VAC20-101.

### **Facility requirements for burning**

Permitted landfills that have ceased accepting waste, but have not been released from post-closure care may amend their Operations Manual to include open burning as an approved activity. The following items must be included in the facility's Operations Manual:

- documentation of local government approval that open burning is in accordance with local land use, zoning, and local ordinances;
- approval from the fire marshal or local fire department for the occasional burning of vegetative waste;
- approval from the local office of the Virginia Forestry Division;
- expected burn frequency and amounts;
- an Emergency/Contingency Plan that includes open burning;
- site security plan;
- site map of facility showing set backs from the burn site to the waste footprint, landfill property boundaries, and gas flare and blower if the landfill is extracting gas;
- waste storage and ash management plan;
- documentation of alternatives considered; and
- recordkeeping of date of burning activity and total amount of waste burned.

Set backs from the burn site to the waste footprint, gas flare and blower for landfills extracting gas, landfill property boundary, and any structures on-site shall be approved by the local fire marshal. Burning cannot take place on land that has been filled and covered so as to prevent an underground fire hazard due to the presence of methane gas (9VAC 5-40-5630 A 10 and 9VAC20-80-250 C 8).

### **Frequency of burning**

Facilities may burn no more than 5 days per quarter; the 5 days may be consecutive. A quarter is one of the three-month intervals: January – March, April – June, July – September, and October – December. It is permissible for a facility to burn up to 10 consecutive days (i.e. burn the last 5 days of March and the first 5 days of April.) The maximum number of burn days annually (January 1 to December 31) is 20 days.

Facilities located in an Emission Control Areas shall not burn from May 1 – September 30 per Article 40 (Emission Standards for Open Burning, Rule 4-40), Part II, 9 VAC5-40-5630. Emission Control Areas include:

**Northern Virginia Emissions Control Area:** Arlington County, Fairfax County, Loudoun County, Prince William County, Stafford County, Alexandria City, Fairfax City, Falls Church City, Manassas City and Manassas Park City.

**Hampton Roads Emissions Control Area:** Gloucester County, Isle of Wight County, James City County, York County, Chesapeake City, Hampton City, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City and Williamsburg City.

**Richmond Emissions Control Area:** Charles City County, Chesterfield County, Hanover County, Henrico County, Prince George County, Colonial Heights City, Hopewell City, Petersburg City and Richmond City.

**Western Virginia Emissions Control Area:** Botetourt County, Frederick County, Roanoke County, Roanoke City, Salem City and Winchester City.

**Fredericksburg Emissions Control Area:** Spotsylvania County and Fredericksburg City.

For more detail on Emissions Control Areas see 9VAC5-20-206.

Facilities located in emissions control areas will be able to burn for a maximum of 15 days per year. They may burn during the first and fourth quarter and only during April in the second quarter. No burning is allowed in the third quarter.

### **Amount of waste that may be burned**

The amount of waste that can be stored at a facility is site specific. The amount of vegetative waste that may be burned shall not exceed the annual tonnage that can be stored on-site at a facility on an annual basis. Storage of combustible waste shall not produce conditions that will create a nuisance or a hazard to the public health, safety, or welfare.

### **Length of burning time**

Length of burning time shall be conducted according to all local laws and ordinances specified by the local government where the facility is located. During the period February 15 through April 30, the 4:00 p.m. Burning Law, Section 10.1-1142 of the Code of Virginia, must be observed unless an exemption is granted from the Virginia Department of Forestry.

### **Types of waste that may be burned**

The following types of waste may be burned: clean wood, debris waste, unadulterated wood, vegetative waste, and yard waste. Each of these terms is defined in the definition section.

### **Burning conditions and guidelines**

To ensure protection of public health and the environment:

- All burning must comply with federal , state, and local laws and ordinances;
- The Air Compliance Manager at the DEQ Regional Office must be notified at least twenty-four hours in advance of the date and time of the burning;
- A permit shall be obtained from the local fire marshal;
- A permit/approval shall be obtained from the local office of the Virginia Forestry Division;
- All material to be burned shall be dry and in a condition that sustains good combustion and minimizes smoke;
- Fires must be attended by landfill personnel at all times during burning and until completely extinguished. Smoldering is not allowed;
- No burning shall be conducted during unfavorable meteorological conditions such as high winds, air stagnation, a pollution alert or air quality action day and/or air quality health advisory has been declared;

- The burning shall be extinguished when the emission of smoke, ashes, dust, dirt, odors or any other substance creates a threat to public health, a nuisance, a pollution problem, a fire hazard, or impairs visibility on traveled roads or at airports; and
- Adequate firefighting equipment shall be on-site for extinguishing purposes during burning times.

### **Alternatives**

Facilities that elect to open burn vegetative waste shall consider alternative methods for managing vegetative waste. Vegetative waste can be used to create quality compost, mulch and wood chips. Sending vegetative wastes off-site for recycling or further management shall also be considered. The facility shall consider only burning debris generated in the area/locality served by that facility or service authority.

### **Additional Information as attachments or web links**

Solid Waste Regulations [www.deq.virginia.gov/waste/wasteregs.html](http://www.deq.virginia.gov/waste/wasteregs.html)

Air Regulations [www.deq.virginia.gov/air/regulations/airregs.html](http://www.deq.virginia.gov/air/regulations/airregs.html)

Department of Housing and Community Development – Division of Building and Fire Regulation  
[www.dhcd.virginia.gov](http://www.dhcd.virginia.gov)

State Fire Marshal Regional Office Contact List  
[www.dhcd.virginia.gov/State\\_Fire\\_Marshal/Regional%20Office%20Contact%20List.htm](http://www.dhcd.virginia.gov/State_Fire_Marshal/Regional%20Office%20Contact%20List.htm)

Local Fire Officials Contact List  
[www.dhcd.virginia.gov/State\\_Fire\\_Marshal/Local%20Fire%20Officials.htm](http://www.dhcd.virginia.gov/State_Fire_Marshal/Local%20Fire%20Officials.htm)

Virginia Department of Forestry [www.dof.virginia.gov](http://www.dof.virginia.gov)

4:00 p.m. Burn Law [www.dof.virginia.gov/fire/4pm-law.shtml](http://www.dof.virginia.gov/fire/4pm-law.shtml)